

# **EXHIBIT A**

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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION  
HONORABLE JOHN F. WALTER, U.S. DISTRICT JUDGE

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	Case No.
	)	
vs.	)	CR 15-131-JFW
	)	
TEOFIL BRANK,	)	
	)	
Defendant.	)	
_____	)	

REPORTER'S TRANSCRIPT OF  
TRIAL DAY 1  
TUESDAY, JULY 7, 2015  
P.M. SESSION  
LOS ANGELES, CALIFORNIA

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M A S T E R I N D E X

TUESDAY, JULY 7, 2015, P.M. SESSION

Chronological Index of Witnesses

Government's Witnesses:	Direct	Cross	Redirect	Recross	Voir Dire
Sterle, Sean	25	48			
Saul, M. Scott	50	71	75		
Burns, Donald	78				

EXHIBITS

TUESDAY, JULY 7, 2015, P.M. SESSION

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101 Text message from Defendant to D.B.	10	10	
102 Letter from Bulholtz To D.B.	10	10	
103 Email from Ginger Gibas	10	10	
104 Colt Revolver Owner Registration	10	10	
108 FBI Extraction Report	10	10	
109 Audi Title Transfer	10	10	
110 Audi Florida Title	10	10	
111 Text message from Yim to Defendant	10	10	
115 Tweet Screenshot	10	10	
116 Picture of Samsung Phone 916-420-7906	10	10	
119 D.B. E-mail to Defendant Referrals	10	10	
120 D.B. E-mail to Defendant Test Results	10	10	
127 Stroz Friedberg Phone Extractions	10	10	
128 Marine Investco Cert Of Formation	10	10	
130 Samsung Text Messages With D.B	10	10	

<u>EXHIBITS CON'T</u>			
<u>Exhibits</u>	<u>For Identification</u>	<u>In Evidence</u>	<u>Withdrawn or Rejected</u>
131 Samsung Extraction Report	10	10	
132 Audi r8 Authorization	10	10	
133 Western Union E-mail	10	10	
135 Wells Fargo Screenshot	10	10	
136 Picture of Title "GIFT"	10	10	
137 Transfer of Title by By Seller	10	10	
138 Title Transfer Info	10	10	
144 Web History Re X-ray Proof Bag	10	10	
150 Photo of Deft inside r8	10	10	
153 Photo of Deft at Starbucks	10	10	
154 Photo of Deft at Starbucks	10	10	
155 Photo of Deft at Starbucks	10	10	
156 Photo of Deft at Starbucks	10	10	
157 Photo of Deft in Audi r8	10	10	
158 Property Receipt of Ammunition	10	10	
166 Photo of Protective Glasses	10	10	

<u>EXHIBITS CON'T</u>			
<u>Exhibits</u>	<u>For Identification</u>	<u>In Evidence</u>	<u>Withdrawn or Rejected</u>
167 Photo of Protective Gear	10	10	
168 Photo of Ammunition Bag	10	10	
174 Jarec Wentworth Twitter Page Profile	10	10	
175 Cell Site Map	10	10	
177 Toll Records for 916-420-7906	10	10	
178 Extraction Report for J. Griggs Phone	10	10	
201 Consensual Recording CD	10	10	
201A Transcript of Ex 201	10	10	
202 UCE Video	10	10	
202A Transcript of Ex 202	10	10	
402 BOP Approved Contact List	10	10	
403 E-mail Defendant to Buholtz	10	10	
404 E-mail Defendant to Garner	10	10	
405 E-mail Defendant to Hattig	10	10	
406 E-mail Defendant to Hattig	10	10	
407 E-mail Defendant to Garner	10	10	

<u>EXHIBITS CON'T</u>			
<u>Exhibits</u>	<u>For Identification</u>	<u>In Evidence</u>	<u>Withdrawn or Rejected</u>
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409 E-mail Defendant to Buholtz	10	10	
501 Wire Transfer Stip	10	10	
502 Phone Usage Stip	10	10	
601 Gun Bag	10	10	
604 Defendant's Samsung Phone	10	10	
701 Diagram of Starbucks	10	10	
105 Goldman Sachs Records	11	11	
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114 Wells Fargo Custodian Of Records Declaration	11	11	
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124 Wells Fargo Statement	11	11	
125 Wells Fargo Custodian Of Records Declaration	11	11	
117 T-Mobile Subscriber Information	11	11	



<u>EXHIBITS CON'T</u>				
<u>Exhibits</u>		<u>For</u>	<u>In</u>	<u>Withdrawn</u>
		<u>Identification</u>	<u>Evidence</u>	<u>or Rejected</u>
118	T-Mobile Custodian of Records Declaration	11	11	
129	Twitter Custodian of Records Declaration	11	11	
170	Tweets 205-206	11	11	
172	Tweets Referencing Android Platform	11	11	
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134	MMS Message from Deft To Helena Luciano	63	63	
139	MMS Message of Audi Photo	63	63	
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142	MMS Message of Audi Photo	65	65	
145	Unidentified	65	65	
146	Audi Photograph	65	65	
147	Audi Photograph	65	65	
148	Audi Photograph	66	66	
149	Audi Photograph	66	66	

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EXHIBITS CON'T

<u>Exhibits</u>	<u>For Identification</u>	<u>In Evidence</u>	<u>Withdrawn or Rejected</u>
151 Audi Pics of Deft With Yim	66	66	
501 Stipulation	108		

1                   **LOS ANGELES, CALIFORNIA; TUESDAY, JULY 7, 2015**  
2                   **1:27 P.M.**

3                   ---

4                   (The following proceedings were held in  
5                   open court out of the presence of the jury:)

6                   THE COURT: All right. We're on the record. The  
7                   jury is not present, and apparently the defendant is not  
8                   present. There's a matter that I want to discuss, and it's  
9                   about exhibits. So I don't think the defendant's presence is  
10                  necessary unless you feel uncomfortable proceeding without the  
11                  defendant.

12                 MS. AHMAD: We can proceed, Your Honor.

13                 THE COURT: All right. I wanted to make a record,  
14                 based upon the filings, with respect to the exhibits that have  
15                 been preadmitted. I'm going to use document no. 238 which was  
16                 filed on July 1st, 2015. The following exhibits will be  
17                 preadmitted:

18                 101 to 104, 108 to 111, 115-116, 119 to 120, 127 to 128,  
19                 130 to 133, 135 to 138, 144, 150, 153 to 154, 155 to 158, 166  
20                 to 168, 174 to 175, 177 to 178, Exhibit 201, 201-A, 202, 202-A,  
21                 402 to 409, 501 to 502, 601, 604, and 701.

22                 (Marked for identification and received  
23                 into evidence Exhibit Nos. 101 to 104, 108  
24                 to 111, 115-116, 119 to 120, 127 to 128,  
25                 130 to 133, 135 to 138, 144, 150, 153 to  
                  154, 155 to 158, 166 to 168, 174 to 175,

1 177 to 178, 201, 201-A, 202, 202-A,  
2 402 to 409, 501 to 502, 601, 604, and 701.)

3 THE COURT: I didn't quite understand the document  
4 that you provided me this morning which is the second category  
5 which is headed "business records" to which the defendants have  
6 not objected. I went through the pretrial exhibit stipulation,  
7 and there were no objections to those exhibits. So I intend to  
8 admit those exhibits which will be exhibits 105 and 107,  
9 exhibits 113 to 114, exhibits 121 to 125, exhibits 117 to 118,  
10 and exhibits 129, 170 to 173. So I think I've covered that.

11 (Marked for identification and received  
12 into evidence Exhibit Nos. 105 and 107, 113  
13 to 114, 121-125, 117 to 118, 129, 170, 172,  
14 173.)

15 MR. CHOWDHURY: Your Honor, I'm not sure I got  
16 everything on that list.

17 THE COURT: It's basically on the list that --

18 MR. CHOWDHURY: Okay. I'll just check it.

19 THE COURT: I just restated it for the record  
20 because it's important that we have it in the record because  
21 it's not a filing.

22 MR. CHOWDHURY: Got it. Thank you.

23 THE COURT: Do you need a copy?

24 MR. CHOWDHURY: I've got it.

25 MS. AHMAD: We do, Your Honor.

1 THE COURT: I don't know if I advised counsel or  
2 not, but that lectern does not turn. So if you're up there  
3 trying to turn it, it's going to be an impossible feat.

4 MR. JAUREGUI: Your Honor, I may have made one error  
5 on that exhibit list. May I confer with counsel about one  
6 exhibit?

7 THE COURT: Sure.

8 (Counsel confer.)

9 MR. JAUREGUI: Okay, Your Honor. I did make a  
10 mistake.

11 THE COURT: You did or did not?

12 MR. JAUREGUI: I did. In the 170 to 173 series of  
13 exhibits, defense counsel did object to no. 171, and they  
14 maintain their objection to that exhibit.

15 THE COURT: Okay.

16 MR. JAUREGUI: Thank you, Your Honor.

17 THE COURT: All right. The defendant is present.  
18 Let's bring in the jury and hear the opening statements of  
19 counsel.

20 (The following proceedings were held in  
21 open court in the presence of the jury:)

22 THE COURT: All right. Welcome back, ladies and  
23 gentlemen. We're now going to hear the opening statements of  
24 counsel. We'll begin with the Government counsel.

25 You may proceed.

1 MR. JAUREGUI: Thank you, Your Honor.

2 "I can bring your house down, Don." "I have a Twitter and  
3 your photos and lies can be made, or maybe it's the truth."

4 "What people will read and see of you, wow, I guess I hold the  
5 cards right now." "I want a new car, a motorcycle, and both  
6 hands full of cash. Then I will erase it and you."

7 That is how the defendant in this case, Teofil Brank, also  
8 known as Jarec Wentworth, initiated his plot to extort  
9 Donald Burns of \$1.5 million and a car worth \$180,000. At the  
10 time the defendant was a pornographic actor and on the side an  
11 escort. He got paid to have sex with men and eventually to  
12 introduce other young men to the prostitution business. The  
13 defendant's victim, Donald Burns, was and is a wealthy  
14 businessman, a CEO, a board chairman, a donor to political and  
15 social causes.

16 Burns is openly gay, but as you will hear, he had lots of  
17 skeletons in his closet. You see, Burns had a taste for young,  
18 good looking men, and his money bought him access to them. In  
19 2013, when his 18-year relationship ended, Burns began having  
20 sex with prostitutes regularly, many of whom were associated  
21 with a popular gay porn website. Burns asked one of those  
22 prostitute porn stars to seek out the defendant who at the time  
23 was making films for that website under the stage name  
24 "Jarec Wentworth."

25 Burns wanted to know whether the defendant would be

1 interested in a pay-for-sex arrangement. He was told that the  
2 defendant was interested, and so began their relationship. The  
3 defendant started meeting Burns for sex. He accepted roughly  
4 \$2,000 for each sexual encounter he had with Burns. The two  
5 met in La Jolla and in Palm Beach, and each time the defendant  
6 was paid \$2,000 give or take.

7 But then Donald Burns got another idea. He knew the  
8 defendant was plugged into the gay porn world, and he asked the  
9 defendant to find him other men with whom to have sex. He told  
10 the defendant that he would pay him a referral fee of 2,000 to  
11 \$2,500 for every referral he made. And if the defendant joined  
12 in, he would pay him both for the sex and the referral. That  
13 was the basis of the relationship between Burns and the  
14 defendant.

15 Over the course of 2013 and 2014, the defendant and Burns  
16 engaged in group sex, and the defendant helped Burns gather  
17 young men for sex parties. The defendant knew Burns' taste.  
18 He knew what kind of guys he liked, and he knew how to get  
19 them. He boasted to Burns that he had the pick of the guys  
20 and, quote, "knew how to convince." But he also knew that  
21 Burns was a rich and well-connected man who did not want this  
22 information, the fact that he was regularly paying gay porn  
23 stars and prostitutes to have sex with him, known. He wanted  
24 this a secret.

25 In late 2014, something went awry. One of the defendant's

1 referrals backed out on a deal that the defendant had brokered  
2 for Burns. Burns had already paid the defendant approximately  
3 \$2,000 for referring that escort to him, but when the escort  
4 reneged, the defendant did not give Burns his money back.

5       You will hear from Donald Burns at this trial, and he will  
6 tell you that he didn't care that much about that money but  
7 that he felt he could not trust the defendant after that. He  
8 started to pull away from the defendant. Then on February 16,  
9 2015, the relationship took another turn. When Burns told the  
10 defendant he no longer felt comfortable working with him  
11 meaning he would no longer pay him money, the defendant  
12 responded via text, "Be wise. Don't get me mad. I can bring  
13 your house down, Don. I have a Twitter."

14       And then the defendant did this. The defendant asked his  
15 thousands of Twitter followers "How many porn stars know a  
16 guy" -- "a man named Don? Yes, Don." You will hear from Burns  
17 that, as the defendant was texting him and as he learned about  
18 this tweet, he was overcome with dread. He became panicked,  
19 and he asked the defendant to take down the tweet. "Can you  
20 please be good to me, man? What do you want, Teo? Please take  
21 down the post about me," he wrote.

22       And what did Teo want? Well, as you heard, first it was a  
23 new car, motorcycle, and both hands full of cash. You will see  
24 the text from the defendant to Burns saying that. Then three  
25 minutes later the defendant said he wanted Burns' Audi r8 and



1     \$250,000. You will see that text as well. And ten minutes  
2     after that, defendant upped the ante one more time asking Burns  
3     for yet another \$250,000. Half a million dollars in total plus  
4     the car, that's what Teo wanted.

5             So what did Donald Burns do? He paid. He wanted the  
6     Twitter posts down and the whole thing to go away. And once he  
7     agreed to it, the defendant said to him via text message, which  
8     you will see, "How do I know you won't report me for  
9     extortion?" Donald Burns did not report the defendant for  
10    extortion then. He actually wired the defendant \$500,000 from  
11    his bank account in New York, and he gave him his car. He  
12    hoped the defendant would take down the tweet and it would all  
13    go away. He was scared.

14            Now, the tweet did go away after Burns agreed to the  
15    defendant's requests. It was deleted from defendant's  
16    Jarec Wentworth account at Twitter, but that is not the end of  
17    the story. On March 3rd, 2015, only two weeks after getting  
18    the Audi and the \$500,000, the defendant texted Burns again,  
19    and you will see this. "New deal. New deal. Account will be  
20    deleted if a new deal is reached." This time the defendant  
21    wanted \$1 million and title to the Audi r8 that he had been  
22    driving around for two weeks.

23            But it so happened that, as the defendant's text messages  
24    were coming in on March 3rd and March 4th, Donald Burns was  
25    with the FBI. He was worried that this very thing would

1 happen, that the defendant would not stop his demands. So he  
2 reached out to law enforcement. Federal agents watched as the  
3 defendant's texts came through on Burns' phone. "New deal, new  
4 deal. One mill cash. Get it all. Put it in a case."

5 Now, ladies and gentlemen, you will hear in this trial  
6 that at this point the FBI took over. They monitored the  
7 texts, they listened in on phone calls, and they walked Burns  
8 through how to respond to the defendant's requests.

9 Burns told the defendant that he would give him the  
10 million dollars but that he was afraid to give him the money  
11 himself. He told the defendant that he would send a  
12 representative to meet him at a Starbucks in El Segundo on  
13 March 4, that his representative would give him the million  
14 dollars and the title to the Audi r8. But as you will hear,  
15 the representative was, in fact, an undercover FBI agent.

16 On the night of March 4, 2015, the defendant showed up at  
17 the El Segundo Starbucks. He was driven there by a friend  
18 named Etienne Yim. Mr. Yim will also testify at this trial he  
19 is a cooperator and he has pleaded guilty. And he will tell  
20 you that the defendant told him he was picking up \$1 million  
21 that night from a man named Don whom the defendant had  
22 blackmailed. And he will also tell you that on that night they  
23 had a gun, that the defendant thought they might be set up at  
24 the Starbucks.

25 The defendant, as you will hear, asked Yim to "have my

1 back." He told Yim that, if anyone at the Starbucks should  
2 start shooting at the defendant, that Yim should shoot back.

3 Yim watched as his friend got out of the car to meet  
4 Burns' representative. He stayed in the car with the gun. The  
5 defendant went inside the Starbucks looking for a man in black  
6 jeans and a sports coat. He walked up to that man and said  
7 something to the effect of "What do you got for me?" Defendant  
8 took the title to the r8 from the undercover agent, the man in  
9 the black jeans and the sports coat, and said, "And?" The  
10 undercover agent posing as Burns' representative told the  
11 defendant that he had the million dollars outside in the trunk  
12 of his car and that he should meet him outside.

13 Standing outside in the darkness, the agent popped open  
14 the trunk to his car and told the defendant that the money was  
15 right there in the backpack. But before the defendant could  
16 reach in for the money, the FBI intervened and arrested him.

17 That, ladies and gentlemen, is what happened, and that's  
18 what brings us here. The United States has charged the  
19 defendant Teofil Brank with multiple counts of extortion and  
20 attempted extortion of Donald Burns for \$1 million. I will  
21 recite the counts briefly to you.

22 Count 1, transmitting threatening communications with  
23 intent to extort. That relates to the threats made on or about  
24 February 16, 2015, by the defendant to Burns via text message.

25 Count 2, extortion affecting interstate commerce. This

1 relates to the defendant having obtained \$500,000 from  
2 Donald Burns by wrongful use of fear, namely, by threatening to  
3 distribute Burns' personal, sexual, and embarrassing  
4 information to the public via Twitter.

5 Counts 3 and 4, receiving proceeds of extortion. This  
6 relates to the defendant having obtained the Audi r8 and the  
7 \$500,000 from Donald Burns.

8 Count 5, attempted extortion affecting interstate  
9 commerce. This goes to the million dollars defendant tried but  
10 ultimately failed to get from Donald Burns.

11 And, finally, Count 6, use of an interstate facility to  
12 facilitate an unlawful activity for using his cell phone to  
13 promote, manage, establish, or carry on an extortion.

14 Ladies and gentlemen, the Government submits that, once  
15 you see and hear all the evidence, the text messages, recorded  
16 phone calls, surveillance video at the Starbucks, photographs,  
17 and the testimony, you will return the only verdict that is  
18 consistent with the facts of this case, and that is guilty as  
19 charged to all counts.

20 Thank you.

21 THE COURT: All right. Thank you very much. Now  
22 I'll hear from the defense.

23 MS. AHMAD: Ladies and gentlemen, Mr. Teofil Brank  
24 did not threaten, did not harm, did not extort Donald Burns.  
25 He is not guilty. And the only reason that we are sitting here

1 today is Donald Burns did not want to make good on the promises  
2 he had made to my client, Teofil Brank.

3 So what really happened in this case, ladies and  
4 gentlemen? And I just want to take a step back and sort of  
5 recognize that this case involves a lot of interesting detail  
6 and a world that we may not be familiar with.

7 So just to orient you a little bit, the prosecutor  
8 mentioned a gay pornography company that Mr. Brank worked for.  
9 That company is called "Sean Cody." It's based out of  
10 San Diego. And the thing about Sean Cody is Sean Cody really  
11 represents the elite of the elite when it comes to their  
12 industry. So Sean Cody actors are the most desirable, the most  
13 good looking, the most handsome.

14 And, in addition, Sean Cody actually occupies a subculture  
15 within gay pornography where straight men will actually do gay  
16 pornography because they can earn three or four times the  
17 amount of money that they would earn doing straight  
18 pornography. So that's a little bit about Sean Cody. And I  
19 know it seems improbable, but it's actually a phenomenon that's  
20 called "gay for pay."

21 So what happened in this case, and how did Donald Burns  
22 and Teofil Brank first cross paths? In 2013 Donald Burns used  
23 an online prostitute service literally called "Rentboy.com."  
24 And that's what he did. He rented a young man for purposes of  
25 prostitution. This young man named Myles worked at Sean Cody

1 and had a pay-for-sex relationship with Donald Burns. He also  
2 introduced Teofil Brank to Donald Burns, and in 2013, as you  
3 heard the prosecutor say, Donald Burns, Teofil Brank, and a  
4 third individual had group sex at a hotel in La Jolla that  
5 Donald Burns paid for.

6 Now, over the course of 2013 and 2014, Teofil Brank and  
7 Donald Burns continued their pay-for-sex arrangement. But in  
8 addition, Teofil Brank was the gateway for Donald Burns to this  
9 world of Sean Cody actors. And Teofil Brank started referring  
10 some of these other individuals to Donald Burns for purposes of  
11 sex. So how did that work?

12 You're going to hear testimony from Donald Burns and  
13 you're going to see an e-mail, ladies and gentlemen, that  
14 Donald Burns wrote to my client in September of 2014. The  
15 e-mail lists 11 Sean Cody actors that Donald Burns wanted to  
16 have sex with that he had researched, that he had looked up,  
17 that he had targeted to have sex with. Donald Burns provided  
18 this list to my client and offered him, quote, "Recruiting  
19 \$22,000 of potential lol." And what he meant by that was he  
20 was willing to pay Teofil Brank \$2,000 for each of the  
21 individuals -- each of the 11 individuals that he could arrange  
22 to have sex with Donald Burns.

23 In addition, ladies and gentlemen, you'll see that at the  
24 beginning of the e-mail Donald Burns says in his own words,  
25 "Teo, these are the guys that nobody has ever cracked," meaning

1 these were the young men that Donald Burns had not been able to  
2 secure previously to engage in prostitution for him. So let's  
3 look at the e-mail briefly. There was a young man listed  
4 no. 4, Kyle Mills. Donald Burns e-mailed him, but Kyle  
5 responded back with a very cool "Thanks but not interested."

6 Jacob Burton, no. 6, Donald Burns chatted with him, but  
7 Jacob Burton rightly knew that prostitution was illegal and  
8 said no. But these individuals made it on Donald Burns' list  
9 anyway. So the question is why?

10 Donald Burns is going to take that stand, ladies and  
11 gentlemen, and he's going to tell you that he is a  
12 telecommunications mogul. He started a company and he later  
13 sold it for \$1.1 billion. He's going to take that stand, and  
14 he's going to tell you that today he is worth \$138 million.  
15 This is a man who moves in exclusive circles and has his whole  
16 life, and he wanted what was most exclusive and what was most  
17 elusive to him.

18 So how did he get it? In addition to these pay-for-sex  
19 arrangements that he was setting up, he also groomed some of  
20 the Sean Cody actors that he had a relationship with. And  
21 you're going to hear from two of these young men. One is named  
22 Mackinzie Amadon and the other Justin Griggs. And what  
23 Donald Burns did with these young men is he gave them the  
24 impression that he was going to provide them with a life  
25 outside of pornography. He encouraged them to get out of

1 pornography. He mentored them. He counseled them. He took  
2 them on trips around the world, jet-setting at high society  
3 events. And in the case of Mr. Amadon, he spent over \$200,000  
4 over the course of their relationship.

5 And just like he groomed these two young men, he groomed  
6 Teofil Brank. He mentored him. He counseled him. He  
7 developed a friendship with him, and he seized upon his dreams  
8 to get out of the pornography industry. He encouraged him to  
9 get into modeling, to get head shots taken, and he used his  
10 personal contacts to connect Mr. Brank to Abercrombie & Fitch.

11 The difference between Mr. Amadon and Mr. Brank is that  
12 Donald Burns never made good on those promises, those promises  
13 that he had made to Teofil Brank for two years. And so what  
14 happened earlier this year? Teofil Brank never threatened to  
15 expose Donald Burns for his prostitution arrangements or his  
16 referral fee arrangements. He did what many of us do when  
17 we're in a relationship for two years and you find out that the  
18 person that you've been with is manipulating you. He wanted to  
19 tell his friends what had happened to him. And when he went to  
20 part ways with Donald Burns, he asked for what was owed to him.  
21 He asked for the Audi, and he asked for the \$500,000.

22 Donald Burns didn't go hire an attorney at that moment.  
23 Donald Burns didn't go running to the FBI. He gave that car  
24 and he gave that money to my client like that. And he did it  
25 because he knew he owed it to him. He knew that he had been



1 making promises over the course of their relationship.

2 The only reason we are here now, ladies and gentlemen, is  
3 that Donald Burns and Teofil Brank had a disagreement about the  
4 price and about the promises that had been made between them  
5 for two years. That's the only reason we're here today.

6 But Donald Burns doesn't get to decide that, once  
7 Mr. Brank asks for a million dollars, that all of a sudden now  
8 it's extortion. And I understand that it sounds like a lot to  
9 us. A million dollars is pennies to Donald Burns.

10 The other thing I want to mention to you all is that  
11 Donald Burns did not pay this money to Mr. Brank because he was  
12 worried about his reputation. This is a man who cultivated  
13 relationships with porn stars, who took them around the world,  
14 who took them to meet politicians and dignitaries, who had sex  
15 parties at his house and invited the Sean Cody gay porn  
16 production company to his house, and a man who was seeking to  
17 have sex with 11 different young men at the same time. He was  
18 not worried about his reputation.

19 The last thing I want to mention very briefly, ladies and  
20 gentlemen, is about the gun. That gun was not procured by  
21 Mr. Brank. He's not the one who got the gun. It was unloaded.  
22 It was never on Mr. Brank's person. And he's not charged with  
23 a gun crime right now.

24 As I said at the beginning, there's a lot of information  
25 in this case, and I'd ask you to remember two things.

1 Donald Burns' reputation was never threatened. And, number  
2 two, Teofil Brank only asked for the money that had been  
3 promised to him and that he deserved. Mr. Brank is not guilty.

4 THE COURT: All right. Thank you very much.

5 Call your first witness.

6 MS. JAIMEZ: Thank you, Your Honor. The Government  
7 calls Special Agent Sean Sterle.

8 THE COURT: If anybody wants to leave, leave now  
9 before the witness gets on the stand, please.

10 **SEAN STERLE, GOVERNMENT'S WITNESS, SWORN:**

11 THE CLERK: Please be seated. Please state and  
12 spell your full name for the record.

13 THE WITNESS: Sean Sterle, S-e-a-n S-t-e-r-l-e.

14 THE COURT: You may proceed.

15 DIRECT EXAMINATION

16 BY MS. JAIMEZ:

17 Q Good afternoon.

18 A Good afternoon.

19 Q Agent Sterle, how are you currently employed?

20 A I am employed as a special agent with the Federal Bureau  
21 of Investigation.

22 Q When did you start with the Federal Bureau of  
23 Investigation?

24 A My entrance-on-duty date was July 19, 1998.

25 Q What is your formal title?

1 A Special agent.

2 Q What's your current assignment, Agent Sterle?

3 A I'm currently assigned to Squad C-1 of the Los Angeles  
4 Field Office.

5 Q What type of cases does Squad C-1 handle?

6 A Squad C-1 handles primarily violent crimes which would  
7 consist of extortions, kidnappings, murder for hires,  
8 fugitives, bank robberies, and interference with interstate  
9 commerce through threats of violence or violence.

10 Q And have you ever acted in a supervisory capacity?

11 A Yes, I have.

12 Q Can you explain that a little?

13 A From February of 2012 to June of 2013, I was a supervisory  
14 special agent in Washington, D.C., at the Hoover building at  
15 the FBI headquarters. I was a supervisor in the USOU, the  
16 Undercover and Sensitive Operations Unit, and my job was to  
17 oversee all of the undercover operations occurring in the  
18 western United States.

19 Q And have you ever personally served as an undercover?

20 A Yes, I have.

21 Q How many times?

22 A Conservatively, I would say 30 times.

23 Q And do you ever conduct undercover training?

24 A Yes, I do.

25 Q Have you ever received any awards or commendations?

1 A Yes, I have.

2 Q Where were you on March 3rd, 2015?

3 A On March 3rd, 2015, I was at the Los Angeles Field Office  
4 which is at 11000 Wilshire Boulevard in the Westwood area of  
5 Los Angeles.

6 Q What, if anything, of note happened that day?

7 A Well, late in the -- late in the afternoon, early evening  
8 I was approached by my supervisor, Joe Brine, who reported to  
9 me that there was an extortion that was occurring, and  
10 supervisory Special Agent Brine took me into a conference room  
11 where I was introduced to the victim who was there with his  
12 attorney and a private investigator.

13 Q And did you ever see any evidence related to this alleged  
14 extortion?

15 A Yes, I did. They showed me the evidence that they had  
16 brought in.

17 Q And generally what evidence was it?

18 A I saw a list of text messages that were downloaded off of  
19 the victim's phone which was correspondence between the victim  
20 and Mr. Brank. I also saw a Goldman Sachs wire transfer of  
21 \$500,000 from the victim to a Wells Fargo account in the name  
22 of Teofil Brank.

23 Q And after seeing these items, did you become involved with  
24 the investigation at all?

25 A Yes, I did.

1 Q How did you become involved?

2 A Well, besides, you know, round-tabling different  
3 strategies on the case, I became directly involved as the  
4 undercover agent in this case.

5 Q Now, why was an undercover agent brought in?

6 A In any kind of extortion or murder for hire or any case  
7 where you can extract the victim from dealing with the suspect,  
8 you're always going to try to do that. I mean, our primary  
9 goal, I guess you could say, would be to keep the victim out of  
10 harm's way, hence, if we can take him out and put in somebody  
11 who has been trained to, you know, deal with the suspects and  
12 has gone through it before, that will definitely -- you know, I  
13 try to get an undercover agent in.

14 Q What was the purpose of the undercover operation in this  
15 case?

16 A An undercover operation in this case would be to pay the  
17 demands of Mr. Brank being a million dollars cash and the title  
18 to a \$180,000 automobile.

19 Q And what was your assigned identity as an undercover?

20 A My assigned identity was as a guy named Sean, just like my  
21 regular name, but I was a -- going to be introduced as a  
22 business associate of the victim, kind of somebody that handles  
23 his nontraditional business activities.

24 Q And did you discuss your role with the victim at all?

25 A Yes, I did.

1 Q And, to your knowledge, was Teofil Brank ever alerted to  
2 the fact that another individual would be delivering the  
3 \$1 million?

4 A Yes, he was.

5 Q Now, when was the undercover operation scheduled to occur?

6 A It was scheduled to occur the following day which was  
7 March 4, 2015.

8 Q And where was it scheduled to occur?

9 A It was scheduled to occur at a Starbucks restaurant which  
10 I believe is 530 North Sepulveda Boulevard in the city of  
11 El Segundo, California.

12 Q Why a Starbucks?

13 A Well, Starbucks for two reasons or any public place for a  
14 couple reasons. The other reason being this particular  
15 Starbucks going back to 2004, we did a successful undercover  
16 operation in dealing with a murder-for-hire suspect, and so I  
17 knew the area pretty well and knew how that operation occurred.  
18 And so it was kind of a blueprint for this operation.

19 Q And why did you think this particular operation was going  
20 to increase the potential for success?

21 A Why did I think this operation --

22 Q Or this particular location would increase the potential  
23 for success?

24 A Okay. One, any time as an undercover that you're dealing  
25 with, you know, a suspect and there's a lot of money on the

1 line, you know, unlike the movies where they tend to have it in  
2 the back of an alley or warehouse or something like that, you  
3 know, you really want to try to stay away from that just so --  
4 because that brings a lot of stress into the whole thing.  
5 Obviously, you know, a million dollars and expensive car, I  
6 mean, people have been killed for less.

7 So the main thing is have everybody try to feel as  
8 comfortable as possible, have that in a public place, Starbucks  
9 being a really obvious public place that, you know, both we  
10 believe the suspect and myself for that matter would feel  
11 comfortable in.

12 Q Now, turning your attention to what's been previously  
13 admitted as Exhibit 701 -- and if we could publish it for the  
14 jury -- what is this item, Agent Sterle?

15 A That is a schematic of the Starbucks located at  
16 530 North Sepulveda in El Segundo and the parking lot, the  
17 shopping center with Ralphs market. Just to orient you guys,  
18 the Ralphs market would just be to the south of the parking  
19 lot, and the Starbucks and Jersey Mike's would be to the north  
20 of the parking lot.

21 Q And where did you initially arrive on March 4 for the  
22 undercover operation?

23 A When I first got to the area, I parked the car, if you can  
24 see -- I don't know if -- when I touch this will it --

25 Q Right here?

1 A Yes. There you go. So that's where I parked the car  
2 originally. The reason why that we, you know -- our plan was,  
3 you know, to have the million dollars in the car. And as you  
4 can see, I mean, a Ralphs, a Starbucks, a Jersey Mike's, it's  
5 going to be a well traversed area, a lot of people.

6 So with the experience of working in this parking lot  
7 before, we knew that there was a back corner of the parking lot  
8 where we could try to set up the takedown where the arrest  
9 would happen after the money had changed places and in case  
10 anything had, you know -- anything happened where the suspect  
11 had brought a firearm and there was, you know, any gunfire or  
12 anything like that, it was the most out of the way to ensure  
13 that no innocent bystanders would be injured.

14 Q And what kind of car were you driving at the time?

15 A I was driving a 2014 black Tesla sports car.

16 Q Why a Tesla?

17 A Because the victim is a successful businessman and I was  
18 an associate of his. It made sense for our legend, if you  
19 will, or our backstory that we worked together to have a higher  
20 end car like the one he drove, like the one he was going to  
21 give to Mr. Brank.

22 Q Now, did you do anything to prepare for the meeting?

23 A I did.

24 Q What did you do?

25 A Besides, you know, obviously discussing with the victim



1 our -- what's called our legend, our story, how we knew each  
2 other, how long we knew each other, et cetera; but for the  
3 technical aspect, I was fitted with an audio/video recorder, an  
4 audio recorder and a transmitter.

5 Q And when you say you discussed the story or the backstory  
6 with the victim, who are you referring to specifically?

7 A Mr. Burns, Donald Burns.

8 Q Now, turning your attention to what's been previously  
9 admitted as Exhibit 202 -- please take a moment to turn there  
10 in the binder before you. Do you recognize this exhibit? I'll  
11 give you a moment to turn there.

12 A 202?

13 Q 202.

14 A Got it. Yes, I do.

15 Q What is it?

16 A These are -- it's like a xerox copy of the copies of the  
17 audio/video recording of my meet with Mr. Brank on March 4.

18 Q And is it a fair and accurate copy of that recording?

19 A Yes, it is.

20 MS. JAIMEZ: At this time, Your Honor, the  
21 Government seeks permission to publish the first part of  
22 Exhibit 202.

23 THE COURT: You may.

24 MS. JAIMEZ: Thank you, Your Honor.

25 ///

1           (The video, Exhibit No. 202, commenced  
2           playing before the jury.)

3       Q     BY MS. JAIMEZ: Now, where were you when you filmed the  
4       first portion of Exhibit 202?

5       A     When I turned on the audio/video recorder there, I was in  
6       a Rubio's fish taco restaurant probably a quarter to a half  
7       mile south on Sepulveda from the Starbucks located at  
8       530 North Sepulveda.

9       Q     And what happened after you filmed this portion of the  
10      recording?

11      A     You know, after starting the recording and the  
12      transmitter, you know, I -- from that point there I waited for  
13      the -- I guess you could call them my cover team or takedown  
14      team which would be the guys that would be making sure nothing  
15      happened to me, and then also that would be, if everything went  
16      as planned and Mr. Brank showed up and accepted the money and  
17      the car, we'd execute the arrest. We coordinated together.  
18      From that point there I drove over to the Starbucks, Ralphs,  
19      Jersey Mike's parking lot and parked in that back corner we  
20      showed you in the diagram before.

21      Q     So pulling up Exhibit 701 again, what time did you arrive  
22      at the parking lot approximately?

23      A     At the parking lot, I probably got there 6:15, 6:20.

24      Q     Where did you go from the parking lot?

25      A     Parked the car. We were rushing to get there. I was

1     starving. I grabbed a sandwich at Jersey Mike's and then went  
2     into the Starbucks.

3     Q     And was Teofil Brank there when you got there?

4     A     No, he was not.

5     Q     What did you do when you were in the Starbucks?

6     A     I got there in -- I would say I got there at approximately  
7     6:30 to the Starbucks. I went in and just, you know, ordered a  
8     drink, a coffee, and then sat down at the bar area of the  
9     Starbucks. I guess it would be the bar along the window on the  
10    Sepulveda side. So if you're looking at -- I don't think I can  
11    get it but -- there you go. Does that work? Does that come  
12    up? Okay.

13            So on the west side there, you know, large window looking  
14    out on Sepulveda Boulevard, and then there was a wooden bar  
15    approximately, you know, like this table or the -- the stand  
16    that I'm at right now and bar stools. And there was one spot  
17    open at the time I got there in the whole coffee shop. So I  
18    got that seat. That was the only one I could find.

19    Q     Did you wait there long, Agent Sterle?

20    A     Yes, I did.

21    Q     How long approximately?

22    A     I mean, Mr. Brank arrived at approximately 8:30. So two  
23    hours.

24    Q     And is the person that arrived at the Starbucks the person  
25    that you knew as Teofil Brank in the courtroom today?

1 A Yes, he is.

2 Q Can you point to him and describe for the record what he's  
3 wearing?

4 A Mr. Brank is the man sitting at the table there. So I  
5 guess, for the court reporter, would be to the left of  
6 Your Honor. He's wearing a white shirt, brown hair combed to  
7 the left.

8 THE COURT: The record will indicate the witness  
9 identified the defendant.

10 Q BY MS. JAIMEZ: To clarify, what time approximately did  
11 the defendant arrive?

12 A Arrived at approximately 8:30 p.m. on the 4th of March.

13 Q Was that meeting recorded?

14 A Yes, it was.

15 MS. JAIMEZ: Your Honor, permission to publish the  
16 remainder of 202.

17 THE COURT: Yes, you may.

18 MS. JAIMEZ: Thank you.

19 (The video, Exhibit No. 202, commenced  
20 playing before the jury.)

21 Q BY MS. JAIMEZ: Now, Agent Sterle, why were some portions  
22 of this recording so difficult to hear?

23 A Well, especially in the beginning, the earliest part of  
24 the recording or when Mr. Brank and I met, you know, it  
25 occurred inside the Starbucks. So you've got your background

1 noise of people.

2 At that point it was 8:30. Still it was surprisingly  
3 crowded. A lot of background conversation. There was music  
4 going on over the -- being piped in or whatever through the  
5 speakers and also, especially when we first initiated the  
6 conversation, he was speaking in a very low tone of voice.

7 Q Now, were you able to hear the defendant?

8 A Yes, I was.

9 Q Now, looking again at Exhibit 701, where were you sitting  
10 when the defendant approached you?

11 A I was sitting approximately about there.

12 Q And how did the defendant approach you?

13 A So, you know, just playing the part that I was playing  
14 and, you know, not wanting to be looking around, you know --  
15 and as things were going on here -- and it's about 8:30 at this  
16 point. I was in contact with Agent Jaime Aguirre who was back  
17 in Westwood with the victim and would, you know, relay --  
18 periodically relay info to me through a phone call of what was  
19 going on. In that he said that, you know, Mr. Brank was very  
20 cautious and had mentioned that, you know, I don't want to show  
21 up and have there be a fed there or something like that. So  
22 that being said, I knew he was on a heightened alert, if you  
23 will, trying to figure out if I could be a law enforcement  
24 agent.

25 So as I'm sitting there reading the paper facing westbound

1 toward Sepulveda Boulevard on the stool, I heard a voice, you  
2 know, say something like, "So what do you got for me?" And at  
3 that point I turned, and Mr. Brank was sitting on the stool  
4 next to me which obviously was then open and was facing  
5 180 degrees eastbound.

6 Q So why don't we see the defendant's face on the recording,  
7 the first part of the recording -- excuse me -- inside the  
8 store?

9 A The first part of the recording, obviously, you know, when  
10 he comes in and sits there, in my opinion, trying to be covert  
11 as far as, you know, making contact with me, so he didn't come  
12 up, "hey." The victim had described, you know, I was wearing a  
13 black jacket and jeans and everything, but he didn't come up to  
14 me and say, "Hey, you must be Sean." He sat facing the other  
15 way and kind of -- you know, in a low tone I heard something  
16 like, "So what do you got for me?" Then when I turned and saw  
17 that it was him, that's when I said, "Oh, hey, Teo. I'm Sean."  
18 I introduced myself.

19 At that point there, he's facing this way. I'm facing --  
20 he's facing more eastbound. I'm facing more westbound. I know  
21 he's alerted to possibly, you know, being a law enforcement  
22 trap. I knew the audio would pick it up, but the video is  
23 shooting straight out like this. So if I would have turned all  
24 the way around to be like, "Hey, Teo," it would have been your  
25 typical speak into the lapel. It would have been obvious that

1 I was trying to record a conversation with him, in my opinion.  
2 So hence, I kept kind of more of a natural tone going with him  
3 and kept facing forward.

4 Q And was defendant's comment "What do you have for me," was  
5 that captured by the recording?

6 A No, it wasn't.

7 Q What was your response to that comment?

8 A My response was -- when I turned and looked and saw it was  
9 Mr. Brank and I said, "Hey, Teo."

10 Q And that was captured by the recording?

11 A Yes, it was.

12 Q Now, during the recording we heard you say or you asked  
13 the defendant whether or not he wanted to talk inside or  
14 outside. Why did you ask that?

15 A Well, I mean, going back to an earlier statement that I  
16 made here today, more than anything else we wanted to make sure  
17 everybody is comfortable, he's comfortable so nothing  
18 irrational happens during the meet. So whatever was -- you  
19 know, whatever I thought would make him the most comfortable,  
20 give him the choice. Hence, he was speaking kind of low inside  
21 a Starbucks, you know, climate controlled.

22 It wasn't cold in there, but he was wearing a hoodie with  
23 the hood up over his head like that. And so, I mean, I  
24 didn't -- to me it seemed like, you know, he was keeping his  
25 identity a little bit concealed. I'm like, "Do you want to

1 talk in here, or do you want to go outside?" because there's  
2 other people in there, they could hear the conversation,  
3 et cetera. So whatever I could make him most comfortable with  
4 I wanted to go with.

5 Q And what did you discuss during that conversation?

6 A During that conversation -- okay. So anyway, when I asked  
7 him that, he kind of just said, "Here." So we stay in there,  
8 and then I took out the title to the 2004 Audi r8 automobile  
9 that he wanted the title from Mr. Burns.

10 Q Okay. Now, turning to what's been previously admitted as  
11 exhibits 109 and 110 -- and actually, let's pull those up on  
12 the screen. And 110.

13 Now, what are exhibits 109 and 110, Agent Sterle?

14 A 109 and 110 -- there you go -- are the Florida certificate  
15 of title for the 2004 Audi r8.

16 Q 2004 --

17 A I'm sorry. 2014. Sorry.

18 Q Belonging to who?

19 A Donald Burns.

20 Q And why had you brought Exhibit 109 and 110 to the  
21 Starbucks?

22 A You know, Mr. Brank wanted the title to the car. That was  
23 part of his first demands. He had already picked up the  
24 automobile, according to the victim, from his place in  
25 San Diego. So he had the car. He just did not have the



1 certificate of ownership. Hence, he wanted that. That and the  
2 million dollars is what I was supposed to bring to the meeting  
3 that night.

4 Q So what were you explaining during the first part of the  
5 recording inside the Starbucks?

6 A I was explaining to him that in -- it's not up there right  
7 now but in --

8 Q Page 2 of 109.

9 A So page 2 of 109, and I said in there like, okay, there is  
10 the title, which is actually the certificate of title. Primary  
11 part of it is going to be 110. So I was, you know -- I tore  
12 that off, gave that to him, showed that Donald Burns had signed  
13 that as relinquishing -- as the seller and giving it to  
14 purchaser Mr. Brank.

15 Q Agent Sterle, looking at Exhibit 109, whose writing is on  
16 Exhibit 109?

17 A That is Mr. Burns.

18 Q Okay. And what does it say to the right-hand side on  
19 Exhibit 109?

20 A "Gift."

21 Q Okay. To your knowledge, was this a gift?

22 A No, it was not.

23 Q Okay. And if we could pull out a -- no. We can leave it.

24 Now, looking at Exhibit 109, is any portion of this not  
25 filled out?

1 A Yes. The address part.

2 Q Okay. Did you discuss this with the defendant?

3 A I did. When I -- I tore the top part off. I said, we've  
4 got to return the top part of this to the state of Florida DMV  
5 so they know that the victim, Mr. Burns, has sold the -- or  
6 given the car to Mr. Brank. That being said, I mean, the  
7 Florida DMV would need to have an address to send the new  
8 certificate of title of the car to Mr. Brank so he would have a  
9 certificate with his name on it.

10 Q Okay. And did the defendant provide you with an address?

11 A No, he did not.

12 Q And what did you think about that at the time?

13 A I mean, to me --

14 MR. CHOWDHURY: Objection. Relevance, Your Honor.

15 THE COURT: Sustained.

16 Q BY MS. JAIMEZ: Now, what happened after the title  
17 hand-over?

18 A After the title -- you know, I gave him the -- the major  
19 part of the title. I kept the top part of the lien and said,  
20 "Okay, we're all set."

21 Q All right. Did the defendant take any portion with him?

22 A Yes, he did.

23 Q What did he take?

24 A He took -- it would be Exhibit No. 110.

25 Q Bringing up 110.

1 And what happened after he took Exhibit 110?

2 A Then he said, "And?"

3 Q And what did you think he was referring to?

4 MR. CHOWDHURY: Objection. Calls for speculation.

5 THE COURT: Sustained.

6 Q BY MS. JAIMEZ: What did you do after he said, "And?"

7 A And then I just -- I just said, "It's your lucky day. You  
8 ready to get paid?" And he nodded affirmatively.

9 Q Now, did you have the \$1 million with you in the  
10 Starbucks?

11 A No, I did not.

12 Q Why didn't you have it with you?

13 A I mean, obviously -- well, a couple things. One, we  
14 didn't have a true million dollars. It was a couple of books  
15 in a book bag. But I wouldn't bring a million dollars into a  
16 Starbucks for a meeting, you know -- a meeting with somebody  
17 who was extorting somebody. It's not safe. It goes against  
18 undercover procedures 101, if you will.

19 Q Okay. So what did you do next after he asked you -- after  
20 he said, "And?"

21 A Well, after he said, "And?" I said, "Are you ready to get  
22 paid?" Which he said, yes, or nodded affirmatively. And I  
23 said, "Okay. It's out in the car. You know, let's go get it."

24 Q Right.

25 A Can't say if I quoted myself exactly on that, but I said,

1 "Let's go get it." And then he did not want to go out to the  
2 car.

3 Q But ultimately did you decide to go out to the car  
4 together?

5 A Well, he said -- he said, "No, you know what, I don't want  
6 to go to the car." I'm just summarizing. "I don't want to go  
7 to the car. You know, bring it to me on the patio."

8 Q Now, turning to what's been previously admitted as  
9 exhibits 155 through 156, take a moment to pull those up.  
10 They're also available on the screen, Agent Sterle. 155 and  
11 156.

12 A Okay. Got it.

13 Q What are exhibits 155 through 156?

14 A Those are images or still photos captured of Mr. Brank  
15 from the audio/visual device that I was wearing.

16 Q So what were you and the defendant doing when these photos  
17 were taken?

18 A We were walking toward the door right after he said, you  
19 know, "Come bring the" -- "Come bring it to me out on the  
20 patio."

21 Q Okay. And where did you go from here?

22 A So I followed him out -- followed him out the door, and as  
23 I'm, you know, walking out, I said, okay. I'm going to drive  
24 the car up. You know, just one of those things. Best laid  
25 plans, you know, never survive first contact. So as a -- as

1 our whole plan of, you know, having him come out to the car and  
2 the arrest team being there, everything has got to change at  
3 this point.

4 Q So pulling up Exhibit 701.

5 So what did you do?

6 A So Mr. Brank is going to be right there. So here -- I  
7 start walking this way.

8 Q And describe what you're doing for the record, please,  
9 Agent Sterle.

10 A I'm walking eastbound through the parking lot, and our two  
11 arrest takedown vehicles are in this vicinity here so it would  
12 be easy to effect an arrest over at the undercover vehicle.  
13 Thank you. So I continued down here, and I get in the car.

14 Now, once I get in the car, because I'm wearing a  
15 transmitter, I start, you know, talking, you know, out to my  
16 cover team saying, Mr. Brank is not coming to the car. We're  
17 going to have to go to plan B.

18 Luckily there was a space like right -- the first or  
19 second space where the car is here I noticed as I was coming  
20 out. So hustled over, got in the car. As I'm driving back,  
21 I'm talking, telling these guys, hey, we're going to have to  
22 change, you know, be ready. I'm going to try to get him to the  
23 back of the car just like we said -- our signal when the trunk  
24 went up to effect the arrest.

25 Q Now, during this time you say you're not going to pull it

1 out, what did you mean?

2 A I wasn't going to take the money out of the trunk. I was  
3 going to keep the money in the trunk, and our signal would  
4 still be when the trunk got popped open.

5 Q Okay. And what happened after you moved the car?

6 A When I moved the car, parked there, exited the car, and  
7 then Mr. Brank -- I kind of motioned to him, and he approached  
8 me.

9 Q Okay. Now, turning to what's been previously admitted as  
10 exhibits 153 through 154 -- and 154, what are these items?

11 A Those again are photo stills of the audio video recording  
12 of myself -- that was taken of myself and Mr. Brank.

13 Q Now, where were you and the defendant when these photos  
14 were taken?

15 A I had just exited the automobile. So I'm on the driver's  
16 side, and he's walking up to me from the patio.

17 Q And what was the defendant's demeanor like at this point?

18 A Well, as compared to when we first sat down, he was much  
19 more relaxed and was -- wasn't talking quietly. One, we were  
20 outside; so maybe that had something to do with it. But he was  
21 much more, you know, engaging with me.

22 Q And based on your training and experience, how did you  
23 interpret this change in demeanor?

24 MR. CHOWDHURY: Objection. Calls for speculation.

25 THE COURT: Sustained.

1 Q BY MS. JAIMEZ: Now, looking at Exhibit 154, what is  
2 defendant holding here?

3 A Oh, the one that's up on the screen, if that's 154 right  
4 now, that was the envelope containing the title -- the Florida  
5 state title to the r8, Audi r8.

6 Q What happened right after these photos were taken then?

7 A Right after these photos were taken, you know, we had a  
8 short conversation in which, you know, I told -- I told  
9 Mr. Brank that he had really scared the victim which he said he  
10 didn't understand why he was scared. You know, he didn't --  
11 and then he made a statement on the video that the only reason  
12 this is happening is because somebody's ego got a little too  
13 big.

14 Q And did you give the signal?

15 A Not at that point right there.

16 Q So what did you do next?

17 A So I asked him -- you know, I just said, "Hey, do you want  
18 to count it out right here?" which is one of the reasons I was  
19 having it back in that back corner. It wouldn't be so  
20 conspicuous if we did have an actual million dollars to be  
21 sitting in front of -- there were still people close there  
22 going in and out of Starbucks -- to be counting out a million  
23 dollars. But I asked him, "Hey, do you want to count it out  
24 here?" to which he said, "No. Just open it."

25 Q Did you ever open the bag?

1 A At that point I opened the trunk.

2 Q Then what happened?

3 A Then the bag was in the trunk. So at that point to give  
4 my arrest team a little more time, I -- you know, it was a  
5 padlock. I had a key to it. So I dug around in my pocket,  
6 came out with a key, offered him to do it, to open the bag.  
7 And he said, "No. You do it." And as I bent down to undo the  
8 bag, that's when the arrest was executed by the takedown team.

9 Q Now, did the defendant say anything during the arrest?

10 A Yeah. Well, he was asked -- yeah. As they were taking  
11 him down, yeah. He was asked questions, and he did make a few  
12 statements.

13 Q Did he give a name initially?

14 A Yes. I believe it was Special Agent Franco Marrow asked  
15 him what his name was to which he replied "Josh."

16 Q And did the defendant --

17 A Then he changed it.

18 Q Did the defendant make any other statements, Agent Sterle?

19 A He was asked by, I believe, Special Agent Morrow again or  
20 by Frank again did he have any weapons or any guns on him, and  
21 Special Agent Jeff Bennett asked him if he had come with  
22 anybody else, was there anybody with him.

23 Q What did the defendant say in response to the question was  
24 anyone with him?

25 A I believe he said, "No."



1 Q Now, to your knowledge, was anyone with the defendant that  
2 evening?

3 A Yes. Somebody was.

4 Q Now, looking at Exhibit 701, where was this other person?

5 A The other person was in a car parked right there. So one  
6 thing is the undercover, as soon as the arrest was executed  
7 and, you know, he was cuffed up and everything was safe as far  
8 as -- safe and secure, as the undercover, we're trained to,  
9 like, remove yourself from the situation. And from that point  
10 I went into the Starbucks and shut off the audio video and  
11 audio recorder and -- recorders and the transmitter.

12 Q Agent Sterle, to your knowledge, what happened to the  
13 associate?

14 A Well, when I was walking out, he was being put into an FBI  
15 Government car, and he apologized to me which -- he said, "Hey,  
16 sorry about that." And I was like --

17 MS. JAIMEZ: Okay. No further questions,  
18 Agent Sterle. Thank you.

19 THE COURT: All right. Cross-examination.

20 MR. CHOWDHURY: Thank you, Your Honor.

21 CROSS-EXAMINATION

22 BY MR. CHOWDHURY:

23 Q Good afternoon, Agent Sterle.

24 A Good afternoon.

25 Q So on March 4, 2015, when Mr. Brank was arrested, there

1 was no gun found on his person?

2 A No, there was not.

3 MR. CHOWDHURY: No further questions.

4 THE COURT: All right. May this witness be excused?

5 Hearing no objection, this witness will be excused.

6 You may step down.

7 MS. JAIMEZ: Yes, Your Honor. Thank you.

8 THE COURT: All right. Call your next witness.

9 MS. JAIMEZ: Your Honor, the Government calls  
10 M. Scott Saul.

11 **M. SCOTT SAUL, GOVERNMENT'S WITNESS, SWORN:**

12 THE CLERK: Please be seated. Please state and  
13 spell your full name for the record.

14 THE WITNESS: M. Scott Saul, M. S-c-o-t-t, Saul,  
15 S-a-u-l.

16 MS. JAIMEZ: Your Honor, at this time the Government  
17 will read Mr. Saul's qualifications if it pleases the Court.

18 THE COURT: All right.

19 MS. JAIMEZ: (Reading.)

20 M. Scott Saul is a certified computer forensic examiner  
21 with a specialty in cell phone devices assigned to the FBI  
22 computer analysis response team. His duties include conducting  
23 forensic examinations on computer evidence, performing  
24 comprehensive technical analyses of digital evidence, preparing  
25 evidence for examination from crime scenes, developing and

1 providing evidence collection and examination methods to field  
2 offices and outside law enforcement agencies, performing search  
3 and seizure operations, and retrieving information stored on  
4 digital devices to provide information in a form useful to  
5 investigators while providing instruction and training to  
6 agents and others involved in investigations.

7 Mr. Saul has been a forensic examiner for six years. He  
8 has examined over 900 pieces of digital evidence in connection  
9 with approximately 120 investigations. Over his career he has  
10 taken approximately over 30 courses in forensic examinations.  
11 Mr. Saul is one of only three FBI certified cell phone forensic  
12 examiners currently working in the FBI's Los Angeles office.

13 He has received several certifications including, one, the  
14 cell phone Technology and Forensic Data Recovery Certification  
15 by the Public Agency Training Council; and, two, the GIAC  
16 Security Essentials Certification to name a few. He holds a  
17 Bachelor's of Science in human services with a specialization  
18 in criminal justice.

19 DIRECT EXAMINATION

20 BY MS. JAIMEZ:

21 Q Mr. Saul, does this description accurately reflect your  
22 qualifications?

23 A Yes, ma'am.

24 MS. JAIMEZ: Your Honor, at this point the  
25 United States would ask the Court to find that Mr. Saul is an

1 expert in the field of forensic examinations and allow the  
2 United States to elicit testimony in the form of expert  
3 opinion.

4 THE COURT: All right. I will so find.

5 And I want to give the ladies and gentlemen of the Jury an  
6 instruction. Although I've qualified the witness as an expert,  
7 you should understand that, simply because I have qualified  
8 this witness and allowed this witness to give his opinions,  
9 that does not mean that I endorse or approve any of the  
10 opinions he may give you.

11 Opinion testimony should be judged just like any other  
12 testimony. You may accept it or reject it and give it as much  
13 weight as you think it deserves considering the witness'  
14 education and experience, the reasons given for the opinion,  
15 and all the other evidence in the case. It is for you to  
16 decide whether or not the opinions given by this witness assist  
17 you in your important function of resolving the factual  
18 disputes in this case.

19 You may proceed.

20 MS. JAIMEZ: Thank you, Your Honor.

21 Q Mr. Saul, what is the process used by the FBI for  
22 conducting a forensic examination of a cell phone?

23 A The basic process begins with determining that, as an  
24 examiner, you have legal authority to examine the phone,  
25 generally a search warrant or consent to search. Once that's

1 established, I would go to -- as examiner, I would go to our  
2 evidence unit, take physical possession of the cell phone,  
3 ensure it's the same cell phone I have legal authority to  
4 examine.

5       Once that's done, the tool of choice that we use at the  
6 FBI, basically our go-to tool for cell phone forensics, is the  
7 Cellebrite Universal Forensic Extraction. I would then connect  
8 the phone to that device after making sure that the device was  
9 free of connecting to networks, isolate it so it can't connect  
10 to networks where it can't be wiped down or altered. Once I  
11 connect it to that device, then I see what functions are  
12 supported. I use that to extract the data.

13       We use a term in forensics called "imaging." It's  
14 basically taking -- it's called imaging because it's a mirror  
15 image, referred oftentimes a mirror image, duplicate copy of  
16 the data that's on the phone. So I create a file that takes  
17 all that data, puts it into a single file or set of files, and  
18 then take those files, and I use Cellebrite's physical analyzer  
19 software on a forensic workstation, and I use that to process  
20 the file that I've created. And it takes out, basically parses  
21 and extracts all the data from that file, everything from the  
22 contents of the cell phone into a useable format that I can see  
23 such as all the text message history, e-mail, and such.

24       Once I do that, I verify the authenticity of the image  
25 file I created. We do that using a hashing algorithm which is

1 a mathematical algorithm. We use software. We -- basically it  
2 takes a known set of data, you run it through the software, and  
3 it provides you with sort of a digital fingerprint which in  
4 cell phones is -- using Cellebrite is a 64-character numbers  
5 and letters signature.

6 So once I do that, it creates that signature. Once I do  
7 the processing, I run it through that again. I verify the hash  
8 value hasn't changed which verifies the authenticity of that  
9 file and the contents of the phone. Once I do that, I then  
10 create the report, burn it onto -- usually onto optical media,  
11 CD or DVD or Blu-ray disc, and I provide that to the case agent  
12 for them to review all the data.

13 Q What is the principal technology used in this extraction  
14 you just described?

15 A The principal tool that I use is a Cellebrite Universal  
16 Forensic Extraction device.

17 Q And why is the Cellebrite technology used?

18 A It's been around for a while. It basically supports  
19 almost any phone we can throw at it. It supports more phones  
20 than most software. It's also been tested, validated by a  
21 third party, and also the FBI headquarters laboratory will also  
22 verify each of the software updates before they push them out  
23 for us to use.

24 Q Now, does making a copy of the phone alter the data at  
25 all?

1 A Making the copy does not alter the phone although in a  
2 cell phone just powering on the cell phone is going to change  
3 some of the settings. It's going to log that you've powered on  
4 the device if you try to connect to any networks. So it's  
5 going to change; however, there's several partitions on a cell  
6 phone, there's different layers basically, and it doesn't alter  
7 the user partition or the user data.

8 Q And what do you mean when you say "user data"?

9 A That's where the -- it stores all the text message  
10 communications, e-mail, web browsing, whatever the user of the  
11 cell phone has done.

12 Q Now, you mentioned the hash value. What is the  
13 significance briefly of the hash value?

14 A Again, it's for authenticity. It authenticates that the  
15 file hasn't changed. So it creates this file at the beginning.  
16 Then after I process the evidence item, it -- I can use the  
17 algorithm again, and it's going to give me the same exact  
18 fingerprint. If I was to change a period, add a space,  
19 anything to any of the data on the phone, it would drastically  
20 alter that number.

21 Q Did you do anything else to verify the copy you make is an  
22 exact image?

23 A Once I'm done, I take the phone and spot-check it. So  
24 I'll look at some of the items that have been extracted that  
25 are on the report, and I'll look for those items on the phone

1     itself to make sure it's the data that's on the phone.

2     Q     When you extract data or create a mirror image, are you  
3     ever able to recover deleted items or items deleted by the  
4     user?

5     A     Yes. In most cases.

6     Q     Can you explain how that's done briefly?

7     A     Briefly, when you delete a file on a computer or digital  
8     device, it doesn't actually delete it. It's not efficient for  
9     the operating system to use the processor to overwrite the file  
10    at that point. So it just marks it in a table that it's been  
11    deleted. So the data is still there until that space is  
12    needed, and then the operating system has marked that space as  
13    deleted so it's available for use. If the operating system  
14    needs to store new data, then it will use that space and  
15    overwrite whatever is there marked for deletion.

16    Q     And how often are you able to recover deleted data on a  
17    device?

18    A     In most cases we're able to.

19    Q     And what are some of the variables that affect your  
20    ability to recover deleted items?

21    A     The size of a device, if there's very little free storage,  
22    whatever has been deleted is pretty much going to immediately  
23    be written over with new data. So oftentimes, if it's a device  
24    with a small amount of storage, we're not going to recover  
25    deleted items. Or if it is a heavy user, if somebody uses a



1 cell phone and is constantly deleting and putting new data onto  
2 the phone, it's going to overwrite that data.

3 Q Now, who is authorized to conduct these extractions at the  
4 FBI office?

5 A Well, there's -- as you said, there's three of us. I'm  
6 the only full-time cell phone data examiner. So we encourage  
7 the agents to use kiosks that have this equipment set up for  
8 them, and if they have any questions or problems, they can  
9 submit it to me or ask me questions. But any of the agents  
10 investigating a crime where they seized a cell phone can do  
11 this process themselves.

12 Q Now, were you assigned to perform any tasks in this case?

13 A Yes, I was.

14 Q What were you assigned to do?

15 A I was assigned to perform an extraction examination of a  
16 cell phone.

17 Q And when was that?

18 A I believe it was March 13 of 2015.

19 Q Okay. Now, showing you what's been previously admitted  
20 now as Exhibit 116 as well as Exhibit 604 --

21 MS. JAIMEZ: May I approach the witness, Your Honor,  
22 to provide.

23 THE COURT: Yes.

24 Q BY MS. JAIMEZ: Now, Mr. Saul, do you recognize  
25 Exhibit 116 on the screen and Exhibit 604 in your hand?

1 A The exhibit on the screen is a photograph that I took on a  
2 device that I performed the examination on.

3 Q Okay. And what is Exhibit 604 in your hand and  
4 Exhibit 116 on the screen?

5 A It is a cell phone Samsung Note 3.

6 Q Okay. And how do you recognize it?

7 A It appears to be the same phone that I examined.

8 Q And why did you examine it?

9 A Why did I examine it? I received a request in a search  
10 warrant authorizing me to examine it.

11 Q In connection with this case?

12 A Correct.

13 Q Now, you conducted a forensic examination of this phone?

14 A Yes, ma'am.

15 Q Okay. And what steps did you take to preserve the  
16 evidence on the phone?

17 A I basically followed the steps that I described earlier,  
18 isolated from the networks and then extracted the data and  
19 created the reports.

20 Q And after you extracted the data, did you do anything to  
21 verify it was an exact image?

22 A I did verify the hash value that it was the same. It did  
23 not alter. And I spot-checked it and looked for files on here  
24 as well as the report.

25 Q Okay. Now, directing your attention to exhibits 130

1 through -- 130, 132 through 151 in the binder before you, 130  
2 and then skipping 131, 132 through 151, please, if you would  
3 take a moment to flip through those. 132 through 151.

4 A I'm sorry. What was the last number?

5 Q 151. So 132 through 151.

6 A Okay.

7 Q Do you recognize these exhibits, Mr. Saul?

8 A So far, yes, I do.

9 Q And how do you recognize them?

10 A They're Cellebrite extraction reports, information taken  
11 from those reports.

12 Q Extraction reports taken from where?

13 A From cell phones examined in this case.

14 Q Can you be slightly more specific, Mr. Saul? Cell phones  
15 or which cell phone?

16 A For example, item 131, Exhibit 131 is a cell phone report  
17 that I created. It has my name, the case number associated  
18 with this case, and describes the Samsung. It is the report  
19 that I created.

20 Q Okay. Exhibit 131. And then looking at Exhibit 130, 132  
21 through 151.

22 A Exhibit 130 is a text message exchange between  
23 Teofil Brank and Donald Burns.

24 Q And generally looking at 132 through 151, are you able to  
25 recognize these items, 132 through 151?

1 A These are also extracted contents from cell phones  
2 examined in this case.

3 Q Okay. And how do you recognize these items?

4 A I recognize the cell phone report.

5 Q So looking at 132 through 151, do you recognize these as  
6 items taken from the phone before you, Mr. Saul?

7 MR. CHOWDHURY: Your Honor, I would just note -- I  
8 would object. I think the witness is still looking, flipping  
9 through. I don't think he's seen all the exhibits yet to  
10 answer the question.

11 THE COURT: Yes. Let's let him finish looking  
12 through the exhibits, and you can tell us when you're done.

13 Are you using your report, which is 131, to assist you in  
14 identifying the exhibits 132 through 151?

15 THE WITNESS: No, sir. Actually, 131 is the one  
16 that appears to be the report. It is the report that I created  
17 when I examined the phone, and the other exhibits appear to be  
18 from a cell phone that was examined in this case.

19 THE COURT: Right. How do you know that 132 through  
20 151 are the items that you extracted from the phone?

21 THE WITNESS: These aren't the items that I  
22 extracted from the phone.

23 THE COURT: Okay. Go ahead.

24 Q BY MS. JAIMEZ: Taking a moment, Mr. Saul, looking at  
25 Exhibit 132 through 151, looking at the information, the

1 headers above, please take a moment to examine them.

2 THE COURT: Maybe it's easier if you do a couple of  
3 them at a time so we're not having a group of 132 to 151.

4 MS. JAIMEZ: Yes, Your Honor.

5 Q Mr. Saul, turning your attention specifically to  
6 Exhibit 131, are you able to recognize this item?

7 A Yes, ma'am.

8 Q What is this?

9 A This is the extraction report, the first few pages that I  
10 created when I examined the phone which is the  
11 Samsung Galaxy Note 3.

12 Q And which phone are you referring to specifically?

13 A The Samsung Galaxy Note 3 which is this phone, Exhibit  
14 604.

15 Q Now, turning your attention to Exhibit 130 before you,  
16 please take a moment to examine 130 and the top of 130. Do you  
17 recognize this item? Is this item related to the phone that  
18 you examined?

19 MR. CHOWDHURY: Compound question, Your Honor.

20 THE COURT: Wait a minute. The objection is  
21 sustained.

22 Q BY MS. JAIMEZ: Are you able to now recognize Exhibit 130?

23 A Exhibit 130 is a text history from the Samsung phone I  
24 extracted.

25 Q So you're able to recognize Exhibit 130?

1 MR. CHOWDHURY: Objection. Asked and answered.

2 THE COURT: Overruled.

3 THE WITNESS: Yes.

4 Q BY MS. JAIMEZ: Where did it come from, to be clear?

5 A From the Samsung Galaxy Note 3 that I examined.

6 Q Are you referring to Exhibit 604?

7 A 604, yes.

8 Q Now, turning to Exhibit 132, take a moment to look at that  
9 exhibit at the very top.

10 A Okay.

11 Q Now, where have you seen this exhibit before? Where have  
12 you seen this image before, if anywhere?

13 MR. CHOWDHURY: Objection. Compound, Your Honor.

14 THE COURT: Overruled.

15 THE WITNESS: This appears to be an e-mail from that  
16 phone, from the report that I created.

17 Q BY MS. JAIMEZ: Yes. Now, please take a moment to turn to  
18 Exhibit 133 and please conduct the same analysis.

19 A Yes. This also appears to be an e-mail from the phone  
20 that I examined.

21 Q Now, turning to Exhibit 134 --

22 THE COURT: That doesn't answer the question. How  
23 do you know it's an e-mail that you extracted from the phone?  
24 Just by looking at this document?

25 THE WITNESS: Your Honor, I have seen the entire

1 report which I scrolled through in pretrial hearings.

2 THE COURT: Okay. So then does that also apply to  
3 132 to 151? You've seen each of those documents before, and  
4 those are the documents you extracted from the phone?

5 THE WITNESS: Your Honor, I'd have to look real  
6 quickly at them if I could.

7 THE COURT: That's what we're trying to get at. If  
8 you could look at them quickly and make that determination,  
9 then we do not have to go through them individually.

10 That's what you're trying to accomplish, is it not?

11 MS. JAIMEZ: Yes, Your Honor.

12 THE WITNESS: (Witness reviewed exhibits.)

13 Yes. They do appear to all come from that phone.

14 Q BY MS. JAIMEZ: How do you know that, to clarify?

15 A They're consistent with the report, plus I saw the entire  
16 report in a pretrial hearing.

17 MS. JAIMEZ: Your Honor, the Government at this time  
18 would seek to move exhibits 130, 132 through 151 into evidence  
19 to the extent they have not been previously admitted.

20 THE COURT: Well, you tell me which ones haven't  
21 been admitted.

22 MS. JAIMEZ: Yes, Your Honor. Exhibit 134,  
23 Exhibit 139 --

24 THE COURT: Wait a minute. You're offering 134.  
25 There's an objection?

1 MR. CHOWDHURY: No, Your Honor.

2 THE COURT: All right. 134 will be received into  
3 evidence without objection.

4 (Marked for identification and received  
5 into evidence Exhibit No. 134.)

6 THE COURT: Next exhibit?

7 MS. JAIMEZ: Exhibit 139 through 143.

8 THE COURT: No. 139.

9 Any objection to 139?

10 MR. CHOWDHURY: One moment, Your Honor.

11 THE COURT: Do them individually.

12 MS. JAIMEZ: 140, Your Honor.

13 THE COURT: No. We're still on 139.

14 MR. CHOWDHURY: Relevance, Your Honor.

15 THE COURT: That objection is overruled. It will be  
16 received into evidence.

17 (Marked for identification and received  
18 into evidence Exhibit No. 139.)

19 THE COURT: The next exhibit?

20 MS. JAIMEZ: 140, Your Honor.

21 THE COURT: Any objection?

22 MR. CHOWDHURY: One moment, Your Honor. No  
23 objection, Your Honor.

24 THE COURT: 140 is received into evidence without  
25 objection.



1 (Marked for identification and received  
2 into evidence Exhibit No. 140.)

3 THE COURT: Next?

4 MS. JAIMEZ: 141, Your Honor.

5 THE COURT: Any objection to 141?

6 MR. CHOWDHURY: No, Your Honor.

7 THE COURT: It will be received into evidence  
8 without objection.

9 (Marked for identification and received  
10 into evidence Exhibit No. 141.)

11 MS. JAIMEZ: 143, Your Honor.

12 THE COURT: 143, any objection?

13 MR. CHOWDHURY: No, Your Honor.

14 THE COURT: 143 will be received into evidence.

15 (Marked for identification and received  
16 into evidence Exhibit No. 143.)

17 MS. JAIMEZ: If I missed it, 142, Your Honor.

18 THE COURT: Yes, you did.

19 Any objection to 142?

20 MR. CHOWDHURY: One moment, Your Honor. No,  
21 Your Honor.

22 THE COURT: All right. 142 will be received into  
23 evidence without objection.

24 (Marked for identification and received  
25 into evidence Exhibit No. 142.)

1 THE COURT: Next.

2 MS. JAIMEZ: 145.

3 THE COURT: Any objection?

4 MS. CHOWDHURY: No, Your Honor.

5 THE COURT: Received into evidence.

6 (Marked for identification and received  
7 into evidence Exhibit No. 145.)

8 THE COURT: Next?

9 MS. JAIMEZ: 146.

10 THE COURT: Any objection to 146?

11 MR. CHOWDHURY: One moment, Your Honor. No,  
12 Your Honor.

13 THE COURT: All right. 146 will be received into  
14 evidence.

15 (Marked for identification and received  
16 into evidence Exhibit No. 146.)

17 THE COURT: Next?

18 MS. JAIMEZ: 147, Your Honor.

19 THE COURT: Any objection to 147?

20 MR. CHOWDHURY: No, Your Honor.

21 THE COURT: It will be received into evidence.

22 (Marked for identification and received  
23 into evidence Exhibit No. 147.)

24 THE COURT: Next one?

25 MS. JAIMEZ: 148, Your Honor.

1 THE COURT: Any objection to 148?

2 MR. CHOWDHURY: No, Your Honor.

3 (Marked for identification and received  
4 into evidence Exhibit No. 148.)

5 MS. JAIMEZ: 149.

6 THE COURT: Any objection to 149?

7 MR. CHOWDHURY: No, Your Honor.

8 (Marked for identification and received  
9 into evidence Exhibit No. 149.)

10 MS. JAIMEZ: And 151, Your Honor.

11 THE COURT: Any objection to 151?

12 MR. CHOWDHURY: No, Your Honor.

13 THE COURT: 151 will be received into evidence  
14 without objection.

15 (Marked for identification and received  
16 into evidence Exhibit No. 151.)

17 MS. JAIMEZ: All right. Thank you, Your Honor.

18 Q Now, Mr. Saul, take a moment to look at Exhibit 131 before  
19 you, and let's bring it up on the screen, please, previously  
20 admitted into evidence. Please turn to the last page of this  
21 exhibit.

22 A Okay.

23 Q What does the last page of this exhibit show, Mr. Saul?

24 A It shows contents from the Samsung Galaxy Note 3 that I  
25 examined. It shows the SMS which is short message service

1 which is text messages. It shows the number that were  
2 recovered during the exam which was 10,183. It shows that  
3 2,464 of those were deleted and recovered. It shows -- do you  
4 want me to go through each line?

5 Q No. What does it show specifically with respect to  
6 identifying information of the user looking near the bottom of  
7 the exhibit?

8 A For e-mail it shows the e-mail address  
9 jarecwentworth@gmail.com and has 161 e-mail messages that were  
10 recovered.

11 Q How did this e-mail address come to be associated with  
12 this phone, Exhibit 604?

13 MR. CHOWDHURY: Objection. Calls for speculation.

14 THE COURT: Overruled.

15 THE WITNESS: The user of the phone would have  
16 entered this e-mail address and account into the phone to  
17 receive and send e-mail.

18 Q BY MS. JAIMEZ: And generally, what does this report  
19 indicate with respect to deleted text items going back --

20 A It will show -- sorry. Was there an objection? Sorry.  
21 It will show the number of deleted files that were recovered,  
22 text messages that were recovered.

23 Q Does it show anything with respect to the number of items  
24 that were not recoverable?

25 A If they've been overwritten, the software will not know

1 that they've been deleted. They're not there; so it will not  
2 know that. So it won't show what can't be recovered.

3 Q So, to be clear, what does this show with respect to  
4 deleted information concerning SMS messages?

5 A It shows that there were 2,464 deleted text messages that  
6 it was able to find and recover.

7 Q And were any text messages deleted on this phone, 604?

8 A Yes. There were well over 2,000 that were deleted.

9 Q Were you able to recover those text messages?

10 A Those were the ones that I did recover, yes.

11 Q Now, would there be any other way to verify text messages  
12 that were not recoverable based on your expert opinion?

13 A If it's a text message, you could find the other phone,  
14 the message that it was sent to. You could recover from that  
15 phone or telephone logs from the service provider.

16 Q Now, turning to what's been previously admitted -- now  
17 changing topics, let's turn to Exhibit 115 and 178.

18 Do you recognize these exhibits?

19 A Exhibit 115?

20 Q And 178.

21 A Yes, I do.

22 Q Now, looking at Exhibit 115, do you recognize this item?

23 A Exhibit 115 is a screenshot of a Twitter post that someone  
24 captured on the cell phone, and 178 is a report of a cell  
25 phone -- another cell phone that I examined in this case which

1 was a Samsung Galaxy Alpha, and I located this screenshot on  
2 that cell phone.

3 Q And when did you conduct this other extraction in 178?

4 A It was on June 26, 2015.

5 Q Now, looking at Exhibit 115 up on the screen, are you able  
6 to tell when this screenshot was created? Turning to the  
7 second page.

8 A Yes, I am.

9 Q When was that?

10 A It was created at 1:47 p.m. on February 16.

11 Q And how are you able to know that that was the date it was  
12 created?

13 A This was the metadata associated with that screenshot that  
14 I extracted.

15 Q And looking at Exhibit 178 -- take a moment to bring it up  
16 on the screen, 178, are you able to tell the type of phone that  
17 was examined here?

18 A Yes, I am.

19 Q And what type of phone is it?

20 A It was a Samsung Galaxy Alpha phone.

21 Q Now, turning your attention to what's been previously  
22 admitted as Exhibit 108, take a moment to turn there. If we  
23 could bring it up on the screen as well.

24 What is this exhibit, Mr. Saul?

25 A This is a Cellebrite extraction report created in this

1 case from an iPhone -- Apple iPhone 6. It was extracted by  
2 Special Agent Jonathan Bouman.

3 Q How do you know that?

4 A Based on the report itself and information displayed.

5 Q So do you know what process was used to create this report  
6 based on your expert opinion?

7 A Yes.

8 Q What process?

9 A It would have been similar to the process I described  
10 earlier using the Cellebrite machine.

11 Q And when the Cellebrite process is used to extract text  
12 messages, what time zone is used for the text messages?

13 A In this case, it's the Universal Coordinated Time.

14 Q Is this typical for Cellebrite extraction, Mr. Saul?

15 A Yes. That's a Universal timestamp that doesn't change.

16 Q And why is the Universal time standard used?

17 A Because --

18 Q As opposed to local time.

19 A You can figure out what time it is anywhere in the world  
20 based on what time it is in UTC time.

21 Q How reliable is a Cellebrite report?

22 A From my training and experience, it's reliable. It's  
23 information extracted from the device that it's doing the  
24 extraction from.

25 Q In your expert opinion, would a Cellebrite report

1 accurately represent any text messages on the cell phone it's  
2 extracting from?

3 A Yes, it would.

4 MS. JAIMEZ: No further questions at this time.

5 THE COURT: All right. Cross-examination.

6 MR. CHOWDHURY: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. CHOWDHURY:

9 Q Good afternoon, Mr. Saul.

10 A Good afternoon.

11 Q Just to be clear, in your testimony just now you spoke  
12 about three different cell phones; is that right?

13 A Correct.

14 Q There was the Apple cell phone; is that right?

15 A Yes.

16 Q Belonging to Mr. Burns; right?

17 A That's what I believe, yes.

18 Q Why do you believe that?

19 A It's basically from the information I received from the  
20 case agents, and there was Special Agent Bouman's extraction of  
21 the victim's phone, what I believed to be the victim's phone.

22 Q You were told it was Don Burns' phone?

23 A Correct.

24 Q You also examined what you believe to be Mr. Brank's  
25 phone.



1 A Correct.

2 Q And the other phone you examined was what you believe to  
3 be Mr. Griggs' phone.

4 A That's my understanding, yes.

5 Q Okay. So turning to the screenshot, Exhibit 115 from the  
6 Twitter, to be clear, this screenshot was found on  
7 Mr. Justin Griggs' Samsung phone; is that right?

8 A Yes, sir.

9 Q Now, you talked about the legal authority you have to  
10 conduct these searches. The legal authority you have to  
11 conduct a search of Mr. Brank's phone was pursuant to a search  
12 warrant; is that right?

13 A Correct.

14 Q You did not have a search warrant to search Mr. Burns'  
15 phone; is that right?

16 A I did not do the search of Mr. Burns' phone.

17 Q Do you know if a search warrant -- if there was a search  
18 warrant that authorized the search of Mr. Burns' phone?

19 A In this case I don't know.

20 Q That search was a consent search, wasn't it?

21 A That's my understanding, but I don't know.

22 Q What is a consent search?

23 A When a person authorizes you to examine their phone.

24 Q And Mr. Burns only consented to a search between  
25 February, 2014, and March, 2014 -- isn't that right? -- of the

1 phone?

2 A I don't know.

3 Q That was the time frame that was examined; is that right?

4 MS. JAIMEZ: Objection. Lacks foundation,  
5 Your Honor.

6 THE COURT: We'll see. Objection is overruled.  
7 You can answer the question if you know.

8 THE WITNESS: I don't know what Mr. -- what he  
9 authorized.

10 BY MR. CHOWDHURY:

11 Q Can you turn to Exhibit 108.

12 A Yes.

13 Q And take your time and look through it. But in looking  
14 through it, would you agree with me that the date range here  
15 only goes between February, 2015, and March, 2015? Take your  
16 time.

17 A (Witness reviewed exhibits.)

18 Okay. It appears to go between February 16 and March 5.

19 Q February 16, 2015, and March 5, 2015?

20 A Yes, sir.

21 Q We have nothing else in this report beyond February, '15,  
22 and March, 2015; is that right?

23 A That appears accurate, yes.

24 Q That's because that's the only range that Mr. Burns would  
25 consent to; is that right?

1 A I don't know. I wasn't there for that.

2 MS. JAIMEZ: Objection. Lack of foundation.

3 THE COURT: The objection is overruled. The witness  
4 said he didn't know.

5 Q BY MR. CHOWDHURY: Now, you spoke about taking a physical  
6 image of the phone; is that right?

7 A Correct.

8 Q Okay. And there's a difference between a physical image  
9 and a logical image; is that right?

10 A Correct.

11 Q What is a "logical image"?

12 A A logical image works with the operating system to  
13 basically provide whatever you're asking for. You can select  
14 whatever data you want whether it be text messaging history or  
15 call logs or contact history.

16 Q And you can select a range of time?

17 A I don't think you can select a range. I think you select  
18 all text messages.

19 Q Okay. A physical image is an exact image of everything on  
20 the phone; is that right?

21 A Correct.

22 Q Now, in Cellebrite forensic software -- that was used to  
23 search Mr. Burns' phone; is that right?

24 A Cellebrite software was used, yes.

25 Q That allows the examiner to select a date to include in